



PUBLIC NOTICE

Federal Communications Commission
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Washington, D.C. 20554

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DA 05-1769

July 6, 2005

**WIRELESS TELECOMMUNICATIONS BUREAU SEEKS COMMENT ON REQUEST
FOR WAIVER BY THE CITY OF DOWNEY, CALIFORNIA TO UTILIZE A PART 22 UHF
PAGING CONTROL FREQUENCY FOR PUBLIC SAFETY PURPOSES AND TO OPERATE A
BASE STATION ON A PART 90 MOBILE FREQUENCY**

Comment Date: July 27, 2005

Reply Date: August 8, 2005

By this *Public Notice*, the Wireless Telecommunications Bureau (Bureau) seeks comment on a waiver request filed by the City of Downey, California (Downey) in conjunction with its application to modify its license for Public Safety Pool, Conventional Station WIM839, Downey, California.¹ First, Downey seeks to add Part 22 paging control frequency 470.0250 MHz band to support the communications requirements of its fire department. Downey contends that use of Part 22 spectrum is necessary due to the lack of available public safety channels. Additionally, Downey seeks to operate a base station on frequency 474.0250 MHz (on which Downey is presently authorized to operate mobile units, pursuant to Part 90). Downey contemplates that its fire dispatch may need use the frequency as a fire ground channel to contact fire fighters on rare occasions.

By way of background, Downey is presently authorized under Call Sign WIM839 to utilize Part 90 frequencies in the 470-512 MHz band in the Los Angeles metropolitan area. Downey is a member of the Interagency Communications Interoperability System, a regional UHF trunked radio network of public safety agencies. Downey seeks access to the subject channels due to the extreme shortage of available channels in the Los Angeles Basin.

Downey requests a waiver of Part 22 of the Commission's Rules to use frequency 470.0250 MHz for land mobile use. The frequency is designated under Sections 22.621 of the Commission's Rules, 47 C.F.R. § 22.621, for point-to-multipoint paging control systems. Downey also seeks a waiver of Section 90.311 of the Commission's Rules, 47 C.F.R. § 90.311, to permit base station operations on frequency 474.0250 MHz. This frequency is available under Section 90.311 as a mobile frequency. Section 1.925 of the Commission's Rules, 47 C.F.R. § 1.925 provides that a waiver of the Commission's Rules may be granted if it is shown that the underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest; or in view of the unique or unusual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest or if the applicant has no reasonable alternative.

¹ FCC File No. 0001540550 (filed Dec. 9, 2003, returned for corrections Feb. 8, 2005, amended Mar. 17, 2005).

Downey has obtained letters of concurrence from several public safety licensees potentially affected by a grant of the two frequencies involved in the waiver request or other Part 90 frequencies on Downey's application. The public safety licensees include the City of Alhambra, City of Burbank, City of Culver City, City of Fullerton, City of Glendale, City of La Mirada, City of La Verne, City of Montebello, City of Pasadena, City of Pomona, City of Santa Clarita, City of Santa Monica, City of Santa Monica Airport, City of South El Monte, and South Bay Regional Public Communications Authority.

Interested parties may file comments on the Waiver Request on or before July 27, 2005. Parties interested in submitting reply comments must do so on or before August 8, 2005. All comments should reference the subject waiver request including the DA number of this *Public Notice*, and should be filed with the Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., TW-A325, Washington, D.C. 20554.

The address for FCC locations should be used only for documents filed by United States Postal Service first-class mail, Express Mail, and Priority Mail. Hand-delivered or messenger-delivered documents for the Commission's Secretary are accepted only by the Commission's contractor, Natek, Inc., at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering 236 Massachusetts Avenue, N.E. Other messenger-delivered documents, including documents sent by overnight mail (other than United States Postal Service Express Mail and Priority Mail) should be addressed for delivery to 9300 East Hampton Drive, Capitol Heights, MD 20743. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. See FCC Announces a New Filing Location for Paper Documents and a New Fax Number for General Correspondence, *Public Notice*, 16 FCC Rcd 22165 (2001).

The application and waiver request can be accessed electronically via the Commission's Universal Licensing System, <http://wireless.fcc.gov/uls>. The full text of the waiver request, comments and reply comments will be available for inspection and duplication during regular business hours in the FCC Reference Information Center (RIC) of the Consumer and Governmental Affairs Bureau, Federal Communications Commission, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554. Copies also may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554. Customers may contact BCPI through its web site, <http://www.bcpiweb.com>, by email at fcc@bcpiweb.com, by phone at (202) 488-5300 or (800) 378-3160, or by facsimile at (202) 488-5563. For further information regarding the public reference file for this waiver request, contact Maria Ringold, Chief, Wireless Branch, RIC, (202) 418-1355.

Unless otherwise provided, requests for waiver of the Commission's Rules are subject to treatment by the Commission as restricted proceedings for *ex parte* purposes under Section 1.1208 of the Commission's Rules, 47 C.F.R. § 1.1208. Because of the policy implications and potential impact of this proceeding on persons not parties to the waiver request, we believe it would be in the public interest to treat this case as a permit-but-disclose proceeding under the *ex parte* rules. See Sections 1.1200(a), 1.1206 of the Commission's Rules, 47 C.F.R. §§ 1.1200(a), 1.1206. Therefore, subsequent to the release of this *Public Notice*, *ex parte* presentations that are made with respect to the issues involved in the subject waiver request will be allowed but must be disclosed in accordance with the requirements of Section 1.1206(b) of the Commission's Rules, 47 C.F.R. § 1.1206(b).

For further information, contact Mr. Tom Eng of the Public Safety and Critical Infrastructure Division, Wireless Telecommunications Bureau at (202) 418-0019, TTY (202) 418-7233, or via e-mail to Thomas.Eng@fcc.gov.

By the Chief, Public Safety and Critical Infrastructure Division, Wireless Telecommunications Bureau.

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